

COMBINED DECLARATION AND POWER OF ATTORNEY

As the below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

HERBAL COMPOSITION FOR IMPROVING ORAL HYGIENE, FOR PROVIDING  
LOCAL ANESTHESIA, FOR USE AS AN ORAL SENSATE, FLAVOR ENHANCER AND  
POTENTIATOR, AND METHODS OF USING SAME

the specification of which is attached hereto unless the following box is checked:

☐ was filed on \_\_\_\_\_ as United States Application Serial Number or PCT International Application Number \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificates, or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

\_\_\_\_\_  
(Number) (Country) (Day/Month/Year Filed)

☐

\_\_\_\_\_  
(Number) (Country) (Day/Month/Year Filed)

☐

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

60/255,410  
(Application Number)

December 15, 2000  
(Filing Date)

\_\_\_\_\_  
(Application Number)

\_\_\_\_\_  
(Filing Date)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| (Application No.) | (Filing Date) | (Status: patented, pending, abandoned) |
|-------------------|---------------|--|
|-------------------|---------------|--|

| (Application No.) | (Filing Date) | (Status: patented, pending, abandoned) |
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|-------------------|---------------|--|

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Richard C. Litman:

Registration No. 30,868

Direct all telephone calls to:

Richard C. Litman  
(703) 486-1000

Address all correspondence to.

Richard C. Litman  
LITMAN LAW OFFICES, LTD.  
P.O. Box 15035  
Arlington, VA 22215

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole or First Inventor: PHILIP WOLFSONSignature: Date: 12/14/01Country of Citizenship: U.S.A.Residence: 5 Crast Road,

San Anselmo, CA 94960

Post Office Address: Same

Attorney's Docket No. 19641.01

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY  
STATUS (37 CFR 1.9(d) and 1.27(e)) - SMALL BUSINESS CONCERN

I hereby declare that I am

\_\_\_ the owner of the small business concern identified below:

X an official of the small business concern empowered to  
act on behalf of the concern identified below:

NAME OF CONCERN: PHYTOS, INC.

ADDRESS OF CONCERN: 5 Crest Road, San Anselmo, CA 94960

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed, to and remain with the small business concern identified above with regard to the invention, entitled:

HERBAL COMPOSITION FOR IMPROVING ORAL HYGIENE AND METHOD OF USING SAME

by inventor(s): PHILIP E. WOLFSON, MD

described in:

X the specification filed herewith.

\_\_\_ application serial no. \_\_\_\_\_, filed \_\_\_\_\_

\_\_\_ patent no. \_\_\_\_\_, issued \_\_\_\_\_

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(e) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

NAME: NONE

ADDRESS: \_\_\_\_\_

       INDIVIDUAL        SMALL BUSINESS CONCERN

       NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small business entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: PHILIP E. WOLFSON

TITLE OF PERSON OTHER THAN OWNER: PRESIDENT and CEO

ADDRESS OF PERSON SIGNING: 6 Grant Road, San Anselmo, CA 94960

SIGNATURE: 

Date: December 14, 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

APPLICANT : PHILIP WOLFSON  
SERIAL NO. : Unassigned ART UNIT: Unassigned  
FILED : Herewith EXAMINER: Unassigned  
FOR : HERBAL COMPOSITION FOR IMPROVING ORAL HYGIENE, FOR PROVIDING  
LOCAL ANESTHESIA, FOR USE AS AN ORAL SENSATE, FLAVOR ENHANCER AND  
POTENTIATOR, AND METHODS OF USING SAME

ASSISTANT COMMISSIONER OF PATENTS  
WASHINGTON, DC 20231

Sir:

ASSOCIATE POWER OF ATTORNEY AND APPOINTMENT OF AGENTS  
37 C.F.R. 1.34(b)

Please recognize as Associate Attorneys in this case:

|                     |                 |
|---------------------|-----------------|
| John Remon Wenzel   | Reg. No. 24,768 |
| Charles K. Friedman | Reg. No. 39,195 |
| Robert B. Lyons     | Reg. No. 40,708 |
| Paula L. Craig      | Reg. No. 40,295 |
| Roger F. Phillips   | Reg. No. 30,354 |

Please recognize as Associate Agents in this case:

|                   |                 |
|-------------------|-----------------|
| Dolph H. Torrence | Reg. No. 34,501 |
| George T. Ozaki   | Reg. No. 33,081 |
| Donald E. Watkins | Reg. No. 37,074 |
| Edward G. Favors  | Reg. No. 40,263 |

The addresses and phone numbers of the above Attorneys and Agents are the same as that of the undersigned Principal Attorney.

All previous Associate Powers are hereby revoked.

Please address all correspondence in this application to the undersigned Principal Attorney.

Respectfully submitted,



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RCL:jrw